

Date..... October 25, 2010

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on October 7, 2010, its members voted 7-2-2 in support of a motion to recommend **APPROVAL** of a request from William C. Knapp, LC (owner) to rezone property located at 2301, 2311, & 2367 East 14th Street, and 1408 & 1410 Guthrie Avenue, from "R1-60" One-Family Low-Density Residential District and "C-2" General Retail and Highway Oriented Commercial District to Limited "C-1" Neighborhood Retail Commercial District subject to the following conditions:

1. Prohibit the following uses of the property:
 - a. automotive and motorcycle accessory and parts stores,
 - b. theatres,
 - c. upholstery shops,
 - d. package goods stores for the sale of alcoholic beverages,
 - e. pawn shops, and
 - f. financial service centers that provide check cashing and loans secured by post dated checks or payroll guarantee as their primary activity.
2. All unused drive approaches shall be removed and the right-of-way shall be restored including the installation of full curbs at such time the property is redeveloped.
3. Any freestanding sign installed shall be a monument type sign.
4. Any trash screening enclosure on site shall conform to the standards of the Zoning Ordinance and be comprised of durable materials that compliment the principal building with metal gates.
5. The site shall be developed in substantial conformance with the plan that was presented to the Commission.

The subject property is more specifically described as follows:
(Conditional "R1-60 to Limited "C-1)

Beginning at the Northeast Corner of Lot 18, Sargent Heights, an Official Plat thence South 100.36 feet, West 240.6 feet, Northwest 100.55 feet, East 244.9 feet to Point of Beginning, Lot 18, Sargent Heights.

And

(Except a piece beginning at the Southwest Corner of Lot 18, Sargent Heights, an Official Plat, thence North 50 feet, thence East 19.4 feet, thence Southerly 50.07 feet, thence West 20.2 feet to Point of Beginning), the South 50 feet of Lot 18, Sargent Heights.

October 25, 2010

Date.....

-2-

("R1-60 to Limited "C-1")

All Lots 19, 20, 21, Sargent Heights, all know included in and forming a part of the City of Des Moines, Polk County, Iowa.

("C-1 to Limited "C-1")

Lot 22, Sargent Heights, an Official Plat, all know included in and forming a part of the City of Des Moines, Polk County, Iowa.

(Conditional "C-2 to Limited "C-1")

Lots 23, and 24, Sargent Heights, an Official Plat, all know included in and forming a part of the City of Des Moines, Polk County, Iowa.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, as follows:

1. That the meeting of the City Council at which the proposed rezoning is to be considered shall be held in the Council Chambers, City Hall, Des Moines, Iowa at 5:00 p.m. on November 8, 2010, at which time the City Council will hear both those who oppose and those who favor the proposal.
2. That the City Clerk is hereby authorized and directed to cause notice of said proposal in the accompanying form to be given by publication once, not less than seven (7) days and not more than twenty (20) days before the date of hearing, all as specified in Section 362.3 and Section 414.4 of the Iowa Code.

FORM APPROVED:

Moved by _____ to adopt.



 Michael F. Kelley
 Assistant City Attorney

(ZON2010-00166)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
TOTAL				

MOTION CARRIED

APPROVED

_____ Mayor

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

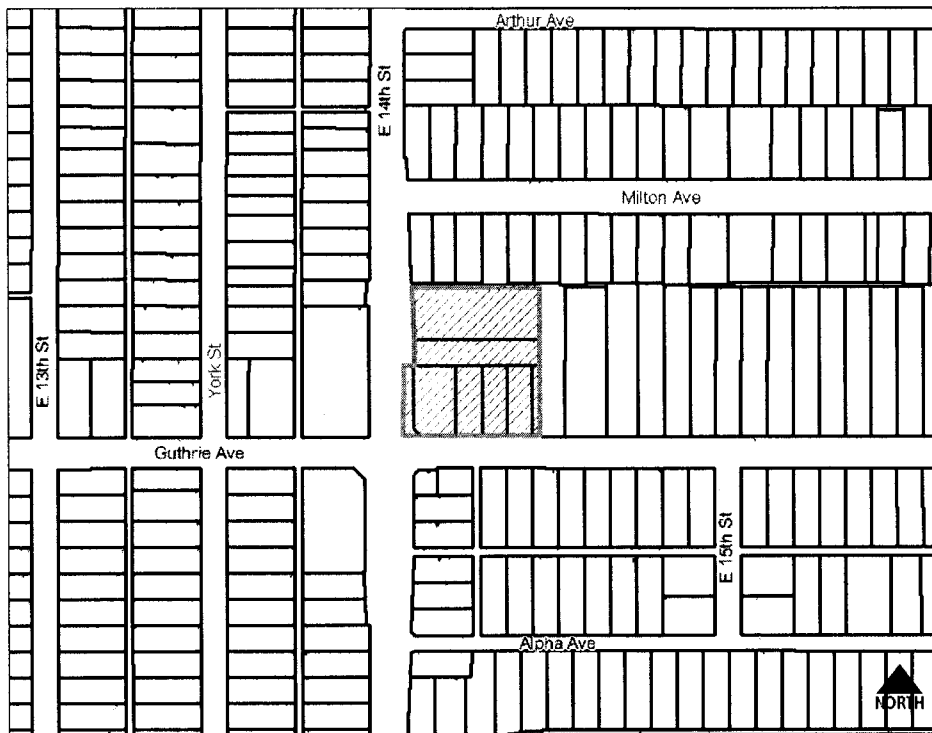
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

_____ City Clerk

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Request from William C. Knapp, LC (owner) represented by Gerard Neugent (officer) for rezoning of property located at 2301, 2311, & 2367 East 14 th Street, and 1408 & 1410 Guthrie Avenue. Portions of the subject property are owned by Imperial Properties, Inc. and Francisco Montalvo.				File # ZON2010-00166	
Description of Action	Rezone property from "R1-60" One-Family Low-Density Residential District, "C-1" Neighborhood Retail Commercial District and "C-2" General Retail and Highway Oriented Commercial District to "C-1" Neighborhood Retail Commercial District to allow the property to be redeveloped as a physician's medical clinic.				
2020 Community Character Plan	Low-Density Residential and Commercial: Pedestrian-Oriented Neighborhood Node				
Horizon 2035 Transportation Plan	E 14 th Street from Euclid Avenue to University Avenue to widen from 4 lane undivided to 5 lane undivided				
Current Zoning District	"R1-60" One-Family Low-Density Residential District, "C-1" Neighborhood Retail Commercial District and "C-2" General Retail and Highway Oriented Commercial District				
Proposed Zoning District	"C-1" Neighborhood Retail Commercial District				
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition	
Inside Area	6	0			
Outside Area					
Plan and Zoning Commission Action	Approval	7-2-2	Required 6/7 Vote of the City Council	Yes	
	Denial			No	X

William C. Knapp LC-2301, 2311, 2367 E 14th St, 1408, 1410 Guthrie Ave ZON2010-00166



Date October 25, 2010

Agenda Item 21

Roll Call # _____

October 20, 2010

Honorable Mayor and City Council
City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their meeting held October 7, 2010, the following action was taken:

COMMISSION RECOMMENDATION:

After public hearing, the members voted 7-2-2 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Leisha Barcus				X
JoAnne Corigliano	X			
Shirley Daniels	X			
Jacqueline Easley	X			
Dann Flaherty		X		
John "Jack" Hilmes			X	
Joel Huston	X			
Ted Irvine				X
Greg Jones	X			
Jim Martin	X			
Brian Millard				X
William Page		X		
Mike Simonson			X	
Kent Sovern	X			

APPROVAL of a recommendation that the requested rezoning of property located at 2301, 2311, & 2367 East 14th Street and 1408 & 1410 Guthrie Avenue be found **not** in conformance with the Des Moines' 2020 Community Character Plan Low Density Residential designation; and approval of an amendment to the Des Moines' 2020 Community Character Plan to revise the future land use designation from Low Density Residential to Commercial: Pedestrian-Oriented Neighborhood Node; and approval of the request to rezone the property to Limited "C-1" Neighborhood Retail Commercial District subject to the following conditions: **ZON2010-00166**

1. Prohibit the following uses of the property:

- a. automotive and motorcycle accessory and parts stores,
- b. theatres,
- c. upholstery shops,
- d. package goods stores for the sale of alcoholic beverages,
- e. pawn shops, and
- f. financial service centers that provide check cashing and loans secured by post dated checks or payroll guarantee as their primary activity.



CITY PLAN AND ZONING COMMISSION
ARMORY BUILDING
602 ROBERT D. RAY DRIVE
DES MOINES, IOWA 50309 -1881
(515) 283-4182

ALL-AMERICA CITY
1949, 1976, 1981
2003

2. All unused drive approaches shall be removed and the right-of-way shall be restored including the installation of full curbs at such time the property is redeveloped.
3. Any freestanding sign installed shall be a monument type sign.
4. Any trash screening enclosure on site shall conform to the standards of the Zoning Ordinance and be comprised of durable materials that compliment the principal building with metal gates.
5. The site shall be developed in substantial conformance with the plan that was presented to the Commission.

Written Responses

6 In Favor

0 In Opposition

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Staff believes that the proposed Land Use Plan amendment and rezoning meets all of the 2020 Community Character Plan's criteria for rezoning residentially zoned property to a commercial designation in a "Residential Protection Corridor" subject to the limitations identified below. Therefore, staff recommends the following:

Part A) Staff recommends that the proposed rezoning be found not in conformance with the existing Des Moines' 2020 Community Character Plan Low Density Residential designation.

Part B) Staff recommends approval of an amendment to the Des Moines' 2020 Community Character Plan to revise the future land use designation from Low Density Residential to Commercial: Pedestrian-Oriented Neighborhood Node.

Part C) Staff recommends approval of the request to rezone the property to "C-1" Neighborhood Retail Commercial District subject to the following conditions:

1. Prohibit the following uses of the property:
 - a. automotive and motorcycle accessory and parts stores,
 - b. theatres,
 - c. upholstery shops,
 - d. package goods stores for the sale of alcoholic beverages,
 - e. pawn shops, and
 - f. financial service centers that provide check cashing and loans secured by post dated checks or payroll guarantee as their primary activity.
2. All unused drive approaches shall be removed and the right-of-way shall be restored including the installation of full curbs at such time the property is redeveloped.
3. Any freestanding sign installed shall be a monument type sign.

4. Any trash screening enclosure on site shall conform to the standards of the Zoning Ordinance and be comprised of durable materials that compliment the principal building with metal gates.

STAFF REPORT

I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant is proposing to rezone the subject property to allow the development of a medical clinic.
2. **Size of Site:** 61,939 square feet (1.4 acres).
3. **Existing Zoning (site):** "C-2" General Retail and Highway Oriented Commercial District, "C-1" Neighborhood Retail Commercial District and "R1-60" One-Family Low-Density Residential District.
4. **Existing Land Use (site):** Vehicle display lot, two single-family dwellings and vacant land.
5. **Adjacent Land Use and Zoning:**
 - North* – "R1-60", Use is single-family residential.
 - South* – "C-1", Use is single-family residential.
 - East* – "R1-60", Use is single-family residential.
 - West* – "C-1" & "R1-60", Use is a convenience store and single-family dwellings.
6. **General Neighborhood/Area Land Uses:** The subject property is located at the East 14th Street and Guthrie Avenue commercial node. The node contains two vehicle display lots and a Quick Trip convenience store.
7. **Applicable Recognized Neighborhood(s):** Union Park Neighborhood.
8. **Relevant Zoning History:** None.
9. **2020 Community Character Land Use Plan Designation:** Low Density Residential and Commercial: Pedestrian-Oriented Neighborhood Node.
10. **Applicable Regulations:** The Commission reviews all proposals to amend zoning regulations or zoning district boundaries within the City of Des Moines. Such amendments must be in conformance with the comprehensive plan for the City and designed to meet the criteria in §414.3 of the Iowa Code. The Commission may recommend that certain conditions be applied to the subject property if the property owner agrees in writing, in addition to the existing regulations. The recommendation of the Commission will be forwarded to the City Council.

II. ADDITIONAL APPLICABLE INFORMATION

1. **Site Plan Requirements:** Any future development of the site must conform to the City's site plan requirements including storm water management, landscaping, open space, and screening for adjoining residential properties.

The site contains a number of overstory trees. The proposed development would be required to comply with the City's Tree Removal and Mitigation Ordinance (Section 42-550 of the City Code).

2. **2020 Community Character Plan:** The Future Land Use Map currently designates the subject site as Commercial: Pedestrian-Oriented Neighborhood Node and Low Density Residential. The Low Density Residential designation allows for areas developed with exclusively single-family dwellings and duplex dwellings legal as of December 31, 1996 of up to 6 units per net acre.

The proposed rezoning requires the future land use designation for the portion of the property designated as Low Density Residential to be amended to Commercial: Pedestrian-Oriented Neighborhood Node. The 2020 Community Character Plan states the following regarding this land use designation.

Commercial: Pedestrian-Oriented: Site orientation is balanced between the needs of the pedestrian and the convenience of the motorist. The development is compact and walkable connections to adjacent areas exist via public streets and sidewalks.

Neighborhood Node: Small-scale commercial serving primarily adjacent Neighborhood. Cumulative building total of 25,000 to 50,000 square feet.

The subject property is located on a portion of the East 14th Street corridor that the 2020 Community Character Plan identified as a "Residential Protection Corridor" (Chapter 2, Page 40). The plan states "many arterial and collector streets continue to have areas of viable single-family and multi-family housing. The City should analyze requests for increasing density, requests for commercial zoning and the impacts of street improvements and traffic changes on the residential corridors."

The plan states that the following items should be considered when proposals to rezoning from residential to commercial are being reviewed.

- The proposed development must contain adequate parcel area, lot depth and access to the primary street.

The subject property has a total area of 61,939 square feet (1.4 acres). The submitted site sketch shows a driveway to East 14th Street at the northwest corner of the site and a driveway to Guthrie Avenue at the southeast corner of the site. The adjoining portion of East 14th Street contains a median as the Guthrie Avenue intersection is traffic light controlled. This makes a drive to Guthrie Avenue necessary in order to allow vehicles to head south on East 14th Street. The submitted site sketch shows that there would be adequate space on the site to meet the City's buffering requirements for commercial property that adjoins residential property.

- It should enhance the existing commercial development. The proposal should not ignore existing vacant buildings or underused space that can be used for redevelopment.

The subject site contains underutilized commercially zoned property. The proposed land use amendment and rezoning would allow the site to be redeveloped and would enhance the existing commercial node.

- Provide a focus for neighborhood activities. Under conditional zoning, the proposed development can be evaluated in terms of hours of operation, parking demands or conflicts, and the nature of activity taking place in a specific building.

The "C-1" District prohibits businesses from operating between the hours of 2:00 A.M. and 6:00 A.M. unless they are able to obtain a Conditional Use Permit from the Zoning Board of Adjustment.

The submitted conceptual design includes a 12,800-square foot building and 81-stall parking lot. The "C" District minimum off-street parking requirement for office uses is 1 stall per 400 square feet of gross floor area. This would require 32 stalls for a 12,800-square foot building.

Staff believes that some of the permitted uses in the "C-1" District would not be appropriate given the site's proximity to the surrounding residential neighborhood. These uses include automotive and motorcycle accessory and parts stores, theatres, upholstery shops, package goods stores for the sale of alcoholic beverages, pawn shops, and financial service centers that provide check cashing and loans secured by post dated checks or payroll guarantee as their primary activity.

- Provide transition area, physical barriers and landscaping between commercial development and residential according to the transition standards developed in the plan.

The submitted site sketch indicates that the parking lot and drives would be setback 10 feet from the north property line and 12 feet from the east property line. The properties to the north and east are residentially zoned. The City's buffering requirements would require the parking lot to be setback 10-feet from the north and east property lines with landscaping and a 6-foot tall opaque screen.

- Be architecturally compatible with adjacent housing and buildings.

The "C-1" District allows commercial buildings to have a maximum height of 35 feet and limits the maximum number of floors to two stories. The surrounding buildings are generally between one and one-and-a-half stories tall. The submitted building elevations indicate that the clinic building would be one-story tall and would have a hipped roof.

- Promote unique solutions to the problem of finding adequate parking that are compatible with neighboring uses. Shared parking facilities and use of on-street parking are two solutions.

The submitted site sketch indicates that the proposed development would have enough parking to meet the "C-1" District requirements.

SUMMARY OF DISCUSSION

Jacqueline Easley joined the meeting.

Jason Van Essen presented staff report and recommendation.

Will Page asked staff how many parking stalls are proposed for this development.

Jason Van Essen stated the submitted conceptual design includes a 12,800-square foot building and an 81-stall parking lot. The "C" District minimum off-street parking requirement for office uses is 1 stall per 400 square feet of gross floor area. This would require 32 stalls for a 12,800-square foot building. This development exceeds the minimum requirement.

Marty Barkley Simon & Associates 1717 Ingersoll Avenue, Suite 117 described the types of materials being used on this development and stated the applicant agrees with all of the conditions proposed by staff.

Dann Flaherty asked is there a reason the building does not front on 14th Street with the parking put in the back.

Marty Barkley stated the parking was put along 14th Street because they could not get the number of parking stalls needed if they put the parking in the back. Additional parking is proposed because of the number of patients that come into the facility. Primary care, family practice facility and urgent care tends to get a number of people coming and going in a short period of time. Orienting the parking along 14th Street eases patient flow, providing adequate parking for their patients. The parking stalls to the east will be used for staff.

Dann Flaherty asked what the hours of operation are.

Marty Barkley stated the hours of operation for urgent care will be 8:00 a.m. to 8:00 p.m.

Jerry Oliver Civil Engineering Consultant, 2400 86th Street stated there is a revised site plan that has been fine tuned eliminating the parking stalls that were adjacent to 14th Street giving more green space and reducing the number of stalls to 74. The high point of this site is in the northeast corner and that the location of the building will accommodate the drainage making the building more visible and will keep most of the parking away from adjoining residents on the east and north.

A neighborhood meeting was held several weeks ago, the general feeling was that the facility would be a significant improvement over the existing facilities that are on the corner. They have an evaluation of the trees from the arborist who has been on the site. His

conclusion was there are nine trees on site that are subject to the City's ordinance. They are able to keep three and will be mitigating the other six.

For buffering along the east and north side of the site there will be a six-foot high wooden fence that is combined with evergreen and overstory trees that will meet the buffering requirements of the ordinance. Additional landscaping on the site will also mitigate for the trees that are being removed.

Dann Flaherty asked if excavation for the building will cause drainage onto the adjoining residential area.

Jerry Oliver stated that it does not drain into the residential area, most of the drainage comes from the east and the north. It enters the site at the northeast corner and it is being picked up in the intake along with underground detention primarily at the southwest corner of the site. They will be detaining the difference between a 100 year storm and a 5 year undeveloped runoff and it is being discharged into a city storm sewer at the southwest corner of this site.

Will Page stated a considerable amount of excavation will be needed for this site to get it flat enough to put the building in and his concern is communication and what is going to happen towards the north with the changing of height and grade. He suggested a retaining wall.

Jerry Oliver stated the building would sit on the site at approximately the existing grade. In turn, the parking and drive behind is slightly below existing grade but not enough to require a retaining wall either on the north or east side. The parking lot from the building towards Guthrie and E. 14th Street does slope off towards Guthrie and E. 14th to make up some of that grade difference. They have done a grading plan for this site and have taken into account the tree removal that would be consistent with the requirements of the site plan ordinance.

Amy Stout, Knapp Properties, 4949 Westown Parkway, West Des Moines stated she met with the Union Park Neighborhood executive committee prior to the neighborhood meeting. At the neighborhood meeting they distributed a plan that showed the trees that were existing with an overlay of the building and parking lot and addressed that issue. The Union Park Neighborhood Association President mentioned the sewer project and asked that they be up front and open about if they are not going to save these trees, and why they are not going to save some of them. They did provide the information about which trees would be saved and which trees would be removed.

Dann Flaherty asked why the Commission did not have a copy of that overlay with the trees.

Jerry Oliver stated the final site plan was submitted to staff on October 6, 2010.

Mike Ludwig pointed out the applicant has submitted a site plan for review. The Commission tonight is reviewing whether or not the property should be rezoned. City Code requires a mitigation for tree removals.

CHAIRPERSON OPENED THE PUBLIC HEARING

There was no one to speak in opposition of the applicant's request.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Kent Sovern moved staff recommendation as submitted in the report.

Dann Flaherty asked if they could ask that the site plan come back to the Commission.

Kent Sovern stated he would defer to someone else making that motion. He thinks administrative approval of the site plan is fine.

Will Page offered a friendly amendment to have the site plan to come back to the Commission before final approval.

Kent Sovern asked what kind of time constraints exist for construction and whether returning with a site plan at the next meeting is a particular issue for them.

Marty Barkley stated they would like to get under construction as quickly as possible. Any further delay will only push construction into November or December which is never fun in Iowa.

Mike Ludwig pointed out that the site plan the applicant has presented tonight is the site plan that was submitted to staff on October 6, 2010. Therefore, the site plan the Commissioners wanted to see is in front of them tonight. One suggestion might be if the Commissioners are fairly comfortable with the site plan as proposed, they could make a condition that the final approved plan be in substantial conformance with what was shown to the Plan and Zoning Commission.

Dann Flaherty explained to the audience that whenever an amendment is offered to a motion that amendment is taken on first and then the motion is subsequently added or deleted from that particular motion.

Will Page motioned to add a friendly amendment to staff recommendation to have the site plan to come back to the Commission before final approval.

Motion failed 4-6-1 (JoAnne Corigliano, Shirley Daniels, John "Jack" Hilmes, Joel Huston, Greg Jones, and Kent Sovern were in opposition and Mike Simonson abstained)

COMMISSION ACTION:

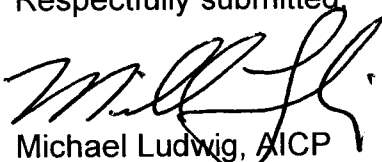
Kent Sovern moved that the proposed rezoning be found not in conformance with the existing Des Moines' 2020 Community Character Plan Low Density Residential designation; and approval of an amendment to the Des Moines' 2020 Community Character Plan to revise the future land use designation from Low Density Residential to Commercial: Pedestrian-Oriented Neighborhood Node; and approval of the request to

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5. The site shall be developed in substantial conformance with the plan that was presented to the Commission.

Motion passed 7-2-2 (Dann Flaherty and Will Page were in opposition; and Mike Simonson and John "Jack" Hilmes abstained)

Respectfully submitted,



Michael Ludwig, AICP
Planning Administrator

MGL:clw

Attachment

Item 2010 00166 Date 9-28-10

I (am) (am not) in favor of the request.

21

RECEIVED
COMMUNITY DEVELOPMENT

OCT 04 2010

DEPARTMENT

Print Name Susan Wadle
Signature 22/3 E/4
Address Susan Wadle

Reason for opposing or approving this request may be listed below:

Item 2010 00166 Date 9/29/10

I (am) (am not) in favor of the request.

(Circle One)

RECEIVED
COMMUNITY DEVELOPMENT

OCT 04 2010

DEPARTMENT

Print Name Alice C. Bergen-Riveros
Signature Alice C. Bergen-Riveros
Address 1422 Alpha Ave

Reason for opposing or approving this request may be listed below:

I am in charge of the New Health Center, I feel
it will be an improvement to this area.

Item 2010 00166-19 Date 10-1-10

I (am) (am not) in favor of the request.

21

(Circle One)

Print Name Michael Harland

RECEIVED
COMMUNITY DEVELOPMENT
DEPARTMENT

Signature M Harland

Address 1421 Milton Ave

Reason for opposing or approving this request may be listed below:

- 1) Save the tree line as a buffer zone as much as possible.
- 2) Suggestion: remove speed humps on Gurthie Ave. To much traffic has moved over to Milton Ave to avoid the humps, including fire & police vehicles

Item 2010 00166-19 Date 9-29-10

I (am) (am not) in favor of the request.

RECEIVED
COMMUNITY DEVELOPMENT
DEPARTMENT

Print Name LINDA A. PARKS

OCT 04 2010 Signature Linda A. Parks

DEPARTMENT Address 2326 E. 14th

Reason for opposing or approving this request may be listed below:

I am not against the medical clinic, but I am concerned about the wooded area of 2367. At the 9/22/10 meeting we were shown pictures of fallen trees and they said the trees that weren't "healthy" would be removed. Well, it's the "unhealthy" trees that nature thrives in and without the trees the birds, squirrels, rabbits, etc. will have no place to live. Let them build the clinic, but save the wooded area. I've lived across from this area since 1969 and having the "unhealthy" trees hasn't been a problem to anyone.

Item 2010 00166-1

Date 10/5/10

(am) (am not) in favor of the request.

21

(Circle One)

**RECEIVED
COMMUNITY DEVELOPMENT**

Print Name Cynthia Purcell

Signature Cynthia Purcell

Address 1427 Melton Ave. Omaha
50316

OCT 08 2010
Reason for opposing or approving this request may be listed below:

DEPARTMENT

Item 2010 00166-1

Date 10/4/2010

(am) (am not) in favor of the request.

(Circle One)

RECEIVED

OCT 8 2010

COMMUNITY DEVELOPMENT
DEPARTMENT

Print Name Mark VanLandschoot

SVP - Bank Iowa
Signature Mark VanLandschoot

Address 1150 Jordan Creek Parkway
West Des Moines, IA

Reason for opposing or approving this request may be listed below: